In the High Court of Punjab and Haryana, Chandigarh.

CWP No.13650 of 2006

Date of Decision: 9.10.2006

Rajesh Nayer

....Petitioner

Versus

Union of India and others.

....Respondents.

Coram:- Hon'ble Mr.Justice J.S. Khehar.
Hon'ble Mr. Justice S.D. Anand.

Present: Mr. V.B. Aggarwal, Advocate
for the petitioner.

...

J.S. Khehar, J. (Oral).

The petitioner Rajesh Nayer, claims appointment against the post of Postal Assistant by way of reservation. In order to seek the aforesaid benefit, the petitioner had first approached the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as the Administrative Tribunal), by filing O.A. No.1043-HR of 2004. The Administrative Tribunal declined the claim of the petitioner by an order dated 6.3.2006. It is this order, which is subject matter of challenge at the hands of the petitioner through the instant writ petition.

A perusal of the impugned order reveals, that two posts of Postal Assistant from open category and one post from reserved category of backward classes were advertised to be filled up by way of direct recruitment. However, a total of eight posts were filled up by way of direct

recruitment. None of the aforesaid posts, was reserved to be filled up from scheduled castes candidates. In so far as, the other five posts are concerned (besides the three advertised posts to be filled up by way of direct recruitment), the pleadings reveal, that in terms of the statutory rules, the same were to be filled up by way of promotion. However, on account of the fact, that none was found suitable for appointment against the said five posts of Postal Assistant by way of promotion, the said posts were thrown open to be filled up by way of direct recruitment under the statutory rules. This is how, eight posts were filled up by way of direct recruitment.

The solitary contention of the learned counsel for the petitioner is, that one of these five posts, thrown open to be filled up by way of direct recruitment, ought to have been filled up from amongst the scheduled caste category, i.e. the post at roster point No.7. This claim of the petitioner was declined by the Administrative Tribunal, by recording the finding, that all the five posts, which were thrown open to be filled up by way of direct recruitment, were required to be filled up from the open category, if the same had been filled up by promotion. The factual position is not disputed by the learned counsel for the petitioner. On the transfer of the posts from the promotion quota, the same position will have to follow. Acceptance of the contention of the learned counsel for the petitioner, would disturb the quota of reserved posts. We are of the view, that the Administrative Tribunal was fully justified in its aforesaid conclusion, as already stated above, because the action of filling up one of the five vacancies by way of reservation, would result in exceeding the reservation quota stipulated in terms of the policy instructions/statutory regulations.

For the reasons recorded above, we find no merit in this

petition. The same is, accordingly, dismissed.

(J.S. Khehar)
Judge.

(S.D. Anand)
Judge.

9.10.2006
sk.